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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,150	03/26/2004	Shelley A. DiGirolamo		8371

7590 01/25/2006
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EXAMINER

SANTOS, ROBERT G

ART UNIT PAPER NUMBER

3673

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/810,150

Applicant(s)

DIGIROLAMO, SHELLEY A.

Examiner

Robert G. Santos

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 9, 2006 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,459,894 to Buonocore in view of U.S. Pat. No. 4,164,797 to Golembeck. Buonocore '894 discloses the use of a pillow kit (10), comprising a cover assembly (12) which includes substantially identical top (18) and bottom (20) portions, the top and bottom portions including spaced longitudinal sides and end sides; at least one chamber section (32, 34 and 36) located interiorly of the cover assembly, defining a separate volume within the cover assembly; loose filling (16) located within the at least one chamber section; and at least one core member (14), constructed to be insertable into and removable from the at least one chamber section, for

Art Unit: 3673

selectively changing the support characteristics of the pillow. However, Buonocore '894 does not specifically disclose a condition wherein the top and bottom portions are secured around the peripheries thereof except for one side and the use of means for selectively opening and closing the one side. Golembeck '797 provides the basic teaching of a support article (10) provided with a cover assembly (12) comprising top and bottom portions which are secured around their respective peripheries except for one side and means (14) for selectively opening and closing the one side. The skilled artisan would have found it obvious at the time the invention was made to provide the pillow kit of Buonocore '894 with top and bottom portions which are secured around their respective peripheries thereof except for one side and means for selectively opening and closing said one side in order to facilitate cleaning of the cover assembly and removal or replacement of the loose filling and the at least one core member as desired.

As concerns claims 2-4, Buonocore '894 further discloses the use of a plurality of chamber sections (32, 34 and 36) and a plurality of inserts (14) adapted for insertion therein, wherein filling is located within all the chamber sections and the chamber sections extend for substantially the entire length of the pillow (see Figures 1 & 2). With regards to claims 5 and 6, Buonocore '894 is also considered to show conditions wherein the inserts have different support characteristics and wherein the different characteristics include differences in fill weight in column 3, lines 56-61. As concerns claim 8, Buonocore '894 further teaches a condition wherein the pillow filling is natural feathers and/or down (see column 3, lines 51-52).

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buonocore '894 in view of Golembeck '797 as applied to claim 3 above, and further in view of U.S. Pat. No.

Art Unit: 3673

5,007,123 to Salyards. Buonocore '894 further teaches the use of a cover assembly which includes top and bottom portions having a plurality of fabric barriers extending therebetween (see column 3, lines 31-33); however, Buonocore '894, as modified by Golembeck '797, does not specifically disclose the use of a cover assembly comprising top and bottom portions each including inner and outer layers formed from polyester and cotton, respectively. Salyards '123 provides the basic teaching of a support device (11) provided with outer and inner coverings (17, 19) which may be constructed either from cotton or polyester (see column 4, lines 18-21). The skilled artisan would have found it obvious at the time the invention was made to provide the pillow kit of Buonocore '894, as modified by Golembeck '797, with a cover assembly comprising top and bottom portions each including inner and outer layers formed from polyester and cotton, respectively, since such materials are commonly used in the art of constructing cover assemblies as taught by Salyards '123.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buonocore '894 in view of Golembeck '797 as applied to claim 1 above, and further in view of U.S. Pat. No. 6,594,838 to Hollander et al. Buonocore '894, as modified by Golembeck '797, does not specifically disclose a condition wherein the pillow filling is synthetic material. Hollander et al. '838 provide the basic teaching of pillow fill material (22) which may be in the form of either natural or synthetic material (see column 4, lines 38-47). The skilled artisan would have found it obvious at the time the invention was made to replace the natural fill material of the pillow kit of Buonocore '894, as modified by Golembeck '797, with synthetic material since such a

modification would have been generally recognized as a substitution of art-recognized equivalents as taught by Hollander et al. '838.

Response to Amendment

6. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DiGirolamo '590 and Haley '628.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Lee can be reached on (571) 272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3673

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
January 19, 2006